IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 436 OF 2007

IN

SUIT NO. 3084 OF 1987

M/s.Nathani Industrial Services
Pvt. Ltd. ... ... Plaintiff.
Versus
M/s.Oriental Insurance Co.Ltd. ..... Defendant

Ms.Trupti Shete i/by M/s.Dhruve Liladhar & Co.,
for the Applicant / Defendant.
Mr.Girish Desai for the Respondent/Plaintiff.

CORAM : D. G. KARNIK, J.

DATED : 6TH FEBRUARY, 2007.

P.C.:

Heard Counsel for the applicant (defendant) and the respondent (plaintiff).

2. This notice of motion is taken out by the applicant for condoning the delay in filing the written statement and taking the written statement on record. Counsel for the defendant submits that the written statement was drafted and even affirmed on 19th July, 1989. However, it remained to be filed in the Court due to inadvertence. The Counsel for the

defendant tenders for the perusal of the Court the affirmed written statement. Perusal of the same shows that the written statement was affirmed on 19th July, 1989. This indicates that the written statement was intended to be filed and appears to have not been filed due to inadvertence.

3. In my view, the delay caused in filing of the written statement can be condoned by compensating the plaintiff by costs for the delay. As the delay is gross and is of more than 15 years, the costs, in my view, should be substantial.

4. Accordingly, the notice of motion is allowed in terms of prayer clause (a), subject to the defendant paying to the plaintiff costs of Rs.3,000/- within three weeks. If costs are not paid within three weeks, the motion shall stand dismissed.

Sd/-

(D. G. KARNIK, J.)